

IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

BELINDA PRITCHETT
PLAINTIFF

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VS.

AMERICAN BANKERS INSURANCE
COMPANY OF FLORIDA
DEFENDANT

CASE NO. 2:14-cv-231

DEFENDANT'S NOTICE OF REMOVAL TO FEDERAL COURT

COMES NOW DEFENDANT AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA ("Defendant"), and hereby removes this action from the District Court of Hartley County, Texas, 69th Judicial District, to the United States District Court for the Northern District of Texas, Amarillo Division, and as grounds therefor would respectfully show as follows:

1. Plaintiff Belinda Pritchett ("Plaintiff") filed this suit on October 16, 2014, in the District Court of Hartley County, Texas, 69th Judicial District, Cause No. 4879H (the "State Court Suit"). The State Court Suit was served on Defendant on October 16, 2014. In accordance with 28 U.S.C. §1446(a), a true and correct copy of all processes, pleadings and orders, as far as known to Defendants in such action, are attached hereto and made a part hereof. The State Court Suit is a dispute over coverage and amount of losses under an insurance policy, and the Plaintiff alleges breach of contract, violation of the prompt payment of claims statute, and violation of the Texas Deceptive Trade Practices Act in bad faith. Plaintiff also seeks attorneys' fees.

2. There is jurisdiction over this removed action pursuant to 28 U.S.C. §1441, because the Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §1332. Diversity of citizenship exists between plaintiff, a citizen of the state of Texas and American

Bankers Insurance Company of Florida, a company formed under the laws of Florida and domiciled in Florida. The amount in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs.

AMOUNT IN CONTROVERSY

3. Defendant would show that the minimum jurisdictional limits of this Court have also been met and that the amount in controversy exceeds \$75,000. A defendant may perfect a notice of removal based on allegations in the pleadings or facts in the notice. *Chapman v. Powermatic, Inc.*, 969 F.2d 160, 163 n. 6 (5th Cir. 1992).

4. Plaintiff also seeks attorneys' fees. Potential attorneys' fees should be considered when calculating the amount in controversy. *St. Paul Reinsurance v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998).

5. All of the figures above are derived from allegations in Plaintiff's Original Petition and conclusively show that the amount in controversy exceeds the jurisdictional limit of this Court.

6. Specifically, Plaintiff alleges in Section III, Claims for Relief, paragraph 4. "Plaintiff currently seeks monetary relief over \$100,000 but no more than \$200,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees."

REMOVAL

7. Plaintiff filed the State Court Suit on October 16, 2014. The State Court Suit was served on Defendant by certified mail, return receipt requested on October 16, 2014. This Notice of Removal is being filed in the United States District Court for the Northern District of Texas, Amarillo Division, pursuant to 28 U.S.C. § 124(b)(2), within thirty (30) days from the date that

Defendant was served a copy of Plaintiff's Original Petition, from which Defendant first determined that the State Court Suit was removable.

8. Pursuant to 28 U.S.C. §1446(d), defendant will, promptly after the filing of this Notice, give written notice hereof to all adverse parties and will file a copy of this Notice with the District Clerk of Randall County, Texas.

9. Pursuant to Fed. R. Civ. P. 81(c)(2)(c), Defendant will file its answer to Plaintiff's complaint within seven (7) days after this Notice of Removal is filed.

EXHIBITS TO REMOVAL

10. An index of matters being filed is attached hereto as Exhibit "A."
11. All executed process in this case is attached hereto as Exhibit "B."
12. Plaintiff's Original Petition and Discovery Requests is attached hereto as Exhibit "C."
13. The state court docket sheet is attached hereto as Exhibit "D."
14. A list of all counsel of record, including addresses, telephone numbers and parties represented is attached hereto as Exhibit "E."
15. Civil Cover Sheet is attached hereto as Exhibit "F."
16. The 2014 Florida Profit Corporation Report for American Bankers Insurance Company of Florida is attached hereto as Exhibit "G."

CONCLUSION

17. Plaintiff has not demanded a jury in the State Court Suit.
18. The undersigned represents the defendant.

19. The events giving rise to this suit occurred in Hartley County, Texas, which is in the Northern District of Texas, Amarillo Division, of the United States District Court, and is being removed to this Court pursuant to 28 U.S.C. § 1446(a) and 28 U.S.C. § 124(b)(2).

20. This Notice of Removal is being filed in the United States District Court for the Northern District of Texas, Amarillo Division, within thirty days from the date that Defendant was served a copy of Plaintiff's Original Petition, from which defendant first determined that the State Court Suit was removable.

Respectfully submitted,

/s/ Carter L. Ferguson

Carter L. Ferguson
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to all counsel of record pursuant to the applicable Federal Rules of Civil Procedure as follows:

Richard D. Daly
Ana M. Ene
Matthew Worrall
Daly & Black, P.C.
2211 Norfolk St., Suite 800
Houston, TX 77098

DATED this 7th day of November, 2014.

/s/ Carter L. Ferguson
Of Brackett & Ellis, P.C.